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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,969	01/22/2002	Stephen E. Terry	I-2-135.2US	4018
24374	7590	11/22/2004	EXAMINER	
VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			MILLS, DONALD L	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/053,969

Applicant(s)

TERRY, STEPHEN E.

Examiner

Donald L Mills

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 15 and 16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_



JOHN PEZZLO

PRIMARY EXAMINER

Continuation of 5. NOTE:

The Examiner appreciates the Applicant's remarks for providing further clarification. The Examiner would like to note that although the instant invention and that of the prior art are drawn to different inventions the claims of the instant invention read upon that of the prior art.

On page page 2 of the remarks, regarding claims 14 and 15, the Applicant argues Kilkki does not disclose *controlling a flow of data through a forward access common channel by a plurality of sources by the flow control entity*. The Examiner respectfully disagrees. The forward channel is defined as the channel for transmitting data from an originating user to a destination user. Noting this definition, Kilkki discloses cell filtering of data packets for transmission between the MS 202 and the trunking network 204 (thereby controlling the flow of data through a forward access common channel) (See column 8, lines 14-16.) Also, the Examiner interprets the limitation *by a plurality of sources by the flow control entity* as relating to the resources used to accomplish the flow control not the number of sources generating data. Noting this, Kilkki discloses using multiple elements of the filtering system (plurality of sources) to control the flow of data (See Figures 9 and 10, column 14, lines 26-28.)

In addition, on page 3 of the remarks, Applicant argues Kilkki does not disclose *permitting each source a specified amount of data to buffer for transfer over the FACH*. The Examiner respectfully disagrees. Kilkki discloses the cell filtering process accepts or discards a cell based on the state of the node buffer and the priority level of the cell and buffers (each source a specified amount of data to buffer) the accepted cells for

transmission to another node (See column 8, lines 19-23.) Therefore, Kilkki discloses *permitting each source a specified amount of data to buffer for transfer over the FACH.*

Accordingly, the Examiner respectfully submits that both claims 14 and 15 are anticipated by Kilkki based upon a broad and literal interpretation.